

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No. 13-35077

Charles B. Johnson

Debtor.

Chapter 13

**MOTION OF NATIONSTAR MORTGAGE LLC UNDER §362(c)(4)(A)(ii) FOR ORDER
CONFIRMING NO AUTOMATIC STAY IS IN EFFECT**

Nationstar Mortgage LLC (“Movant”) files this Motion under 11 U.S.C. § 362(c)(4)(A)(ii) for an order confirming that no automatic stay is in effect, showing the court as follows:

1. This Chapter 13 case was filed on October 22, 2013, and the Debtor is an individual.

2. Movant applies to the Court, as an interested party in the above referenced bankruptcy case, for an Order Confirming that No Stay is in Effect. During the one-year period preceding the filing of this case, two or more cases filed by the Debtor were pending but were dismissed for other reasons other than as specified under section 707(b) of the Bankruptcy Code.

3. The Debtor was a debtor in a prior case, Case No. 13-30554, a partial filing, which was dismissed by Order on February 22, 2013 for failure to file required documents under section 521(i).

4. The Debtor was also a debtor in a second prior case, Case No. 13-13-30831, also a partial filing, and the case was dismissed by Order dated March 13, 2013 on Debtor’s

application for dismissal, which followed the Court's Order denying an application for an extension of time to complete Debtor's schedules. Neither of these two prior cases were a Chapter 13 case dismissed pursuant to 11 U.S.C. § 707(b). Moreover, based upon these two filings that were pending but then dismissed within the past year, the automatic stay does not come into effect.

5. Movant has scheduled a foreclosure sale for 10:00 a.m. on October 24, 2013, which may have prompted Debtor to file a third *pro se* bankruptcy petition in the above-captioned case. Movant reasonably believes that the foreclosure sale may proceed since no stay is in effect, and out of an abundance of caution, requests the entry an Order Confirming that No Stay is in Effect.

6. No order has been issued under 11 U.S.C. § 362(c)(4)(B) imposing the stay.

7. Movant therefore shows that upon and since the filing of this case, the automatic stay did not, and shall not, go into effect.

WHEREFORE, Movant respectfully requests that the Court enter an order confirming that the automatic stay is not in effect.

Dated: October 24, 2013

WILFORD, GESKE & COOK, P.A.

e/Orin J. Kipp
Orin J. Kipp, #0390438
8425 Seasons Parkway, Suite 105
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651-209-3300
Attorney for Movant

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Charles B. Johnson

Debtor(s).

CHAPTER 13 CASE

CASE NO. 13-35077

UNSWORN DECLARATION FOR PROOF
OF SERVICE

Janelle Egge, employed by Wilford, Geske & Cook P.A., attorneys licensed to practice law in this Court, with office address at 8425 Seasons Parkway, Suite 105, Woodbury, MN 55125-4393, declares that on October 10, 2013, I served the Motion Of Bank of America, N.A. For An Order Confirming That No Automatic Stay Is In Effect to each person referenced below, a copy thereof by enclosing the same in an envelope with first class postage prepaid and depositing same in the post office at Woodbury, Minnesota addressed to each of them as follows:

Charles B. Johnson
3787 St. Croix Trail S.
Afton, MN 55001

and delivered by e mail notification under CM/ECF on the day efiled with the Court to each of them as follows:

Gregory A. Burrell

U.S. Trustee

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: October 24, 2013

/e/ Janelle Egge
Janelle Egge

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No. 13-35077

Charles B. Johnson,

Debtor.

Chapter 13

ORDER UNDER § 362(c)(4)(A)(ii) CONFIRMING THE AUTOMATIC STAY IS NOT IN EFFECT

Nationstar Mortgage LLC seeks an order under 11 U.S.C. § 362(c)(4)(A)(ii) confirming that the automatic stay is not in effect.

Debtor was a debtor in two prior cases that were both dismissed within the one-year period preceding the filing of this case. Neither of the prior cases were a Chapter 13 case dismissed pursuant to 11 U.S.C. § 707(b), and no order has been entered pursuant to 11 U.S.C. § 362(c)(4)(B) imposing the stay. Accordingly, the automatic stay under §362(a) did not go into effect upon or since the filing of this case and no order has been entered imposing the stay.

IT IS SO ORDERED, this _____ day of _____, 2013.

UNITED STATES BANKRUPTCY JUDGE